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May 23, 1991

Sent By Airborne Express

Steven Tribble,
Director of Division of
Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399

**RE: Application for Sailfish Point Utility Corp. for a rate
increase in Martin County; Document No: 900816-WS;**

Dear Mr. Tribble:

Enclosed please find original and twelve (12) copies of
Pre-Hearing Statement for filing on behalf of Intervenors Sailfish
Point Owners Representatives and Charles R. Buckridge.

Sincerely yours,


WM. REEVES KING
For the Firm

- ACK 1
- AEA _____
- APP _____
- CAF WRK/lsh
- CMU Enclosures
- CIP cc: Association
- EMV _____
- LEG _____
- LIT _____
- OPJ _____
- ROH _____
- SEL 1
- WAS _____
- OTH _____

cc: Association
Catherine Bedell, Esquire
Jack Shreve, Esquire
Ben E. Girtman, Esquire
31170105.23

DOCUMENT NUMBER DATE

05257 MAY 24 1991

FSO-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of SAILFISH) Docket No.: 900816-WS
POINT UTILITY CORPORATION for) Submitted
a rate increase in Martin County) for Filing: May 24, 1991
_____)

PRE-HEARING STATEMENT
OF
INTERVENORS CHARLES R. BUCKRIDGE
AND
SAILFISH POINT OWNERS REPRESENTATIVES

Pursuant to Rule 25-22.038(3) Florida Administrative Code, Intervenor, Charles R. Buckridge and Sailfish Point Owners Representatives, through their undersigned Attorney, file this Pre-Hearing Statement and state as follows:

BASIC POSITION STATEMENT

Sailfish Point has been and is being developed as a unified community of only 600 residential units under a PUD Zoning Agreement with Martin County. The approved development plan authorized construction of roads, bridges, waterways, lagoons, lakes, harbors, a marina, drainage pipes and culverts, flood control structures, irrigation systems and pumps, a water treatment and distribution system, waste water collection, treatment and disposal system, a golf course, a country club building and other recreational facilities to be constructed and supplied by the developer with certain performance guarantees required from Mobil Corporation, the parent of Developer.

The development plan required creation of entities to be responsible for the overall operation and maintenance of the improvements required to be constructed and supplied at Sailfish Point by the Developer as a part of the approved plan.

The Developer created Sailfish Point Property Owners and Country Club Association, Inc.; the Sailfish Point Golf Club, Inc.; Sailfish Point Marina, Inc.; and Sailfish Point Utility Corporation as entities to be responsible for the improvements to be constructed and supplied by the Developer. The extent of the responsibilities of each those entities regarding ownership, operation and maintenance of those improvements is governed by the development documents approved by the County under the PUD Zoning Agreement.

Those documents clearly limit the ownership interest and maintenance responsibilities of Sailfish Point Utility Corporation to the land and improvements within the Utility Parcel - the tract of land on which the water treatment and waste water treatment plants are located.

The ownership of and maintenance responsibility for the water distribution and waste water collection lines and mains outside the Utility Parcel remain in the Developer until turnover of control of the Sailfish Point Property Owners and Country Club Association, Inc. to the unit owners other than the Developer. When turnover occurs, the POA will have title to and responsibility for the operation and maintenance of those lines.

The development documents are clear that Sailfish Point residents will be charged for water and sewage services. However, the documents do not state that the charges will be based upon a rate structure which includes a return upon the capital cost of the water treatment and sewage treatment facilities. The sales materials and statements made to prospective purchasers also did not indicate a rate structure based upon anything other than a return for the cost of operation of the facilities in the same manner that the assessments by the Property Owners Association would defray the cost of operation of the other improvements for which the POA had operation and maintenance responsibility.

After ten years of operation, the Utility now seeks to impose upon its users, the residents of Sailfish Point, a rate structure which assumes the parent's capital structure and includes the cost of certain portions of the water and sewage systems in which, under the documents, the Utility has no ownership interest or maintenance responsibility.

The purpose of a rate case is to insure that the utility receives a fair return on its investment. However, when that investment is made by a real estate developer as a part of its overall development cost and expense this Commission should apply a different standard. A developer recovers the cost for roads, lagoons, lakes, etc., required as an integral part of the development from the sale of lots. A Developer, through the guise of a subsidiary utility entity, should not be allowed to obtain a

double return upon its investment by creating an artificial capital structure and ignoring the ownership interest and maintenance responsibilities among the various entities which it created and has honored for the past ten years.

ISSUES AND POSITION

Issue No. 1: Should the cost of the water distribution and waste water collection lines and mains located on the Sailfish Point Property outside of the Utility Parcel be included in rate base calculations?

Position: No. Title to and maintenance responsibility for those improvements is the Developer's until transferred to the POA coincident with turnover. SPUC has no ownership interest in or maintenance responsibility for those improvements under the development documents. Those improvements were contributed to the overall development by the Developer just as were the roads, storm water sewers, and irrigation systems. (Witness Rasmusen).

Issue No. 2: Should the cost of the water treatment and waste water treatment facilities located upon the Utility Parcel be included in the rate case calculations?

Position: No. Although the documents allow those facilities to be owned by SPUC and impose maintenance responsibility for those facilities upon SPUC, there is no indication in any of the development documents or sales literature that the cost of those facilities were not to be a part of the overall investment made by

the Developer in developing Sailfish Point and recovered from the sale of lots just as the cost of the roads, storm sewers, irrigation systems and all other improvements required by the PUD Zoning Agreement as a part of the approved development plan were to be recovered. (Witness Rasmusen).

Issue No. 3: Should SPUC be permitted to assume its parent's capital structure for rate base calculations?

Position: No. The accounting treatment given the utility by the Developer reflects intracorporate transfers and interest free loans which are inconsistent with an equity investment by the parent. (Witness Rasmusen).

Respectfully submitted this 23rd day of May, 1991.

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Wm. Reeves King
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CERTIFICATE OF SERVICE

DOCKET NO. 900816-WS

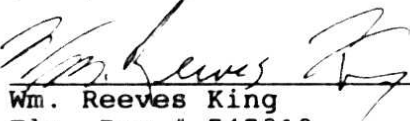
I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail, to the following parties on this 23rd day of May, 1991.

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